

**DRAFT**

**ENVIRONMENTAL ASSESSMENT**

**CHECKLIST**

**McCoy Pond Rainbow Trout Introduction**

**6/19/2023**



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## I. Compliance with the Montana Environmental Policy Act

Before a proposed *project* may be approved, environmental review must be conducted to identify and consider potential impacts of the proposed project on the human and physical environment affected by the project. The Montana Environmental Policy Act (MEPA) and its implementing rules and regulations require different levels of environmental review, depending on the proposed project, significance of potential impacts, and the review timeline. § 75-1-201, Montana Code Annotated (“MCA”), and the Administrative Rules of Montana (“ARM”) 12.2.430, General Requirements of the Environmental Review Process.

FWP must prepare an EA when:

- It is considering a “state-proposed project,” which is defined in § 75-1-220(8)(a) as:
  - (i) a project, program, or activity initiated and directly undertaken by a state agency;
  - (ii) ... a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or
  - (iii) ... a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.
- It is not clear without preparation of an EA whether the proposed project is a major one significantly affecting the quality of the human environment. ARM 12.2.430(3)(a));
- FWP has not otherwise implemented the interdisciplinary analysis and public review purposes listed in ARM 12.2.430(2) (a) and (d) through a similar planning and decision-making process (ARM 12.2.430(3)(b));
- Statutory requirements do not allow sufficient time for the FWP to prepare an EIS (ARM 12.2.430(3)(c));
- The project is not specifically excluded from MEPA review according to § 75-1-220(8)(b) or ARM 12.2.430(5); or
- As an alternative to preparing an EIS, prepare an EA whenever the project is one that might normally require an EIS, but effects which might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations or both imposed by the agency or other government agencies. For an EA to suffice in this instance, the agency must determine that all the impacts of the proposed project have been accurately identified, that they will be mitigated below the level of significance, and that no significant impact is likely to occur. The agency may not consider compensation for purposes of determining that impacts have been mitigated below the level of significance (ARM 12.2.430(4)).

MEPA is procedural; its intent is to ensure that impacts to the environment associated with a proposed project are fully considered and the public is informed of potential impacts resulting from the project.

## II. Description of Proposed Project

This section includes a short description of the proposed project including the project sponsor/ applicant/ responsible party, the type of proposed action and the anticipated schedule of the proposed project.

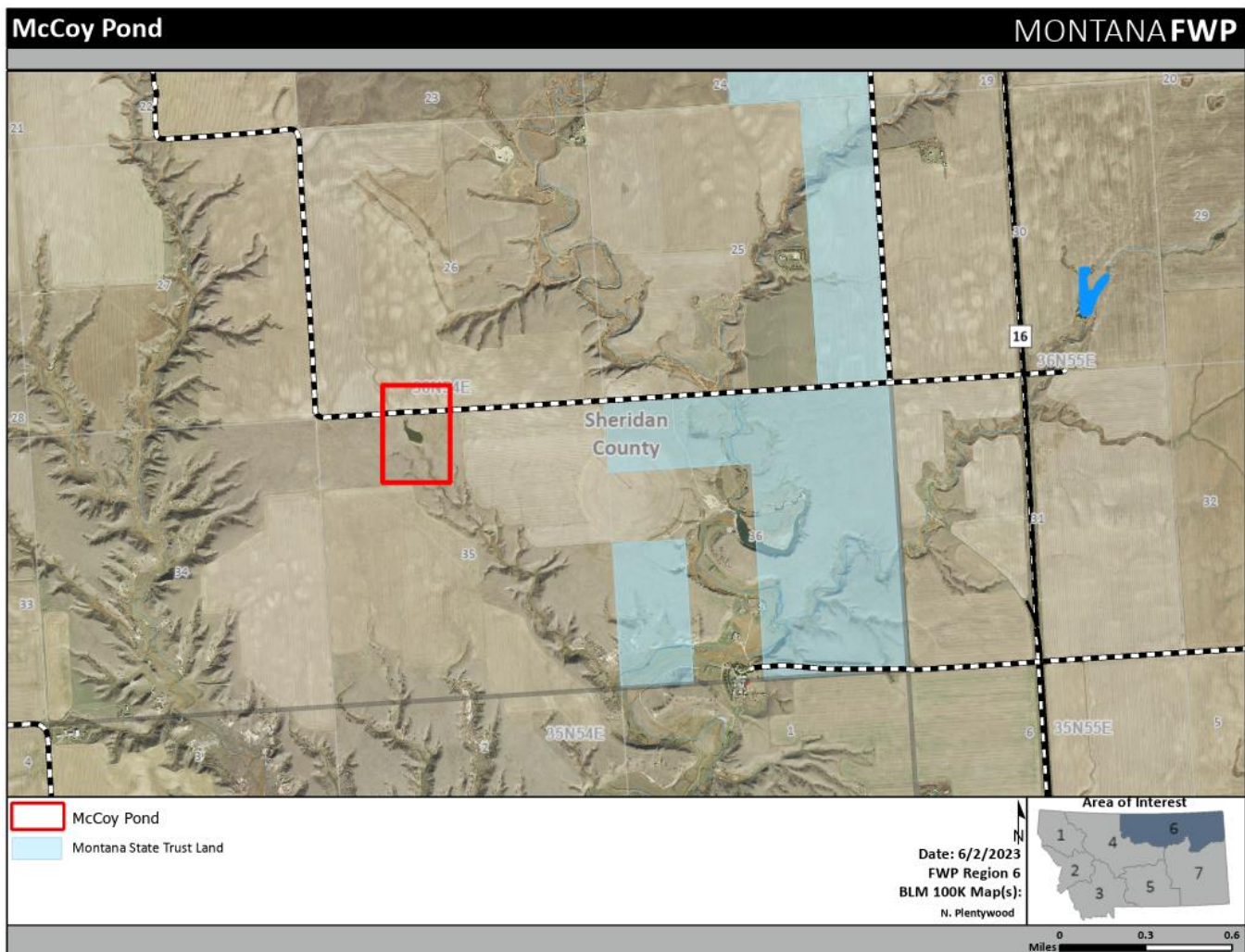
**Name of Project:** McCoy Pond Rainbow Trout Introduction

**Description of Proposed Project:** Montana Fish, Wildlife and Parks (FWP) is proposing to introduce Rainbow Trout from a state hatchery operated by FWP into McCoy Pond near Plentywood, MT. McCoy Pond recently came under management of FWP fisheries staff. McCoy Pond is located on property owned by Dale McCoy and fisheries resources present are managed by FWP fisheries staff.

The proposed project would increase angling opportunity by creating an additional fishing opportunity for recreational anglers. The proposed project would take place in summer 2023.

#### **Affected Area / Location of Proposed Project**

- Legal Description
  - Latitude/Longitude: 48.83714, -104.61680
  - Section, Township, and Range: S35 T36N R54E
  - Town/City, County, Montana: Plentywood, Sheridan, Montana
- Location Map



**Figure 1 – McCoy Pond (Red), north of Plentywood, MT.**

### **III. Purpose and Need**

The EA must include a description of the benefits and purpose of the proposed project. ARM 12.2.432(3)(b). Benefits of the proposed project refer to benefits to the resource, public, department, state, and/or other.

**Project Purpose and Benefits:** The proposed project would increase angling opportunity for individuals residing in the greater Plentywood, MT area. The greater Plentywood, MT area currently has limited fisheries resources that are seasonally volatile. An additional angling opportunity in the area, especially one that provides generally high catch rates, would greatly improve fishery resources available to local anglers.

If FWP prepared a cost/benefit analysis before completion of the EA, the EA must contain the cost/benefit analysis or a reference to it. ARM 12.2.432(3)(b).

	Yes*	No
Was a cost/benefit analysis prepared for the proposed project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

\* If yes, a copy of the cost/benefit analysis prepared for the proposed project is included in Attachment A to this Draft EA

## IV. Other Agency Regulatory Responsibilities

FWP must list any federal, state, and/or local agencies that have overlapping or additional jurisdiction, or environmental review responsibility for the proposed project, as well as permits, licenses, and other required authorizations. ARM 12.2.432(3)(c).

A list of other required local, state, and federal approvals, such as permits, certificates, and/or licenses from affected agencies is included in **Table 2** below. **Table 2** provides a summary of state requirements but does not necessarily represent a complete and comprehensive list of all permits, certificates, or approvals needed. Rather, **Table 2** lists the primary state agencies with regulatory responsibilities, the applicable regulation(s) and the purpose of the regulation(s). Agency decision-making is governed by state and federal laws, including statutes, rules, and regulations, that form the legal basis for the conditions the proposed project must meet to obtain necessary permits, certificates, licenses, or other approvals. Further, these laws set forth the conditions under which each agency could deny the necessary approvals.

**Table 2: Federal, State, and/or Local Regulatory Responsibilities**

Agency	Type of Authorization (permit, license, stipulation, other)	Purpose
N/A	N/A	N/A

## V. List of Mitigations, Stipulations

Mitigations, stipulations, and other *enforceable* controls required by FWP, or another agency, may be relied upon to limit potential impacts associated with a proposed Project. The table below lists and evaluates enforceable conditions FWP may rely on to limit potential impacts associated with the proposed Project. ARM 12.2.432(3)(g).

**Table 3: Listing and Evaluation of Enforceable Mitigations Limiting Impacts**

Are enforceable controls limiting potential impacts of the proposed action? If not, no further evaluation is needed.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, are these controls being relied upon to limit impacts below the level of significance? If yes, list the enforceable control(s) below	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Enforceable Control	Responsible Agency	Authority (Rule, Permit, Stipulation, Other)	Effect of Enforceable Control on Proposed Project
N/A	N/A	N/A	N/A

## VI. Alternatives Considered

In addition to the proposed Project, and as required by MEPA, FWP analyzes the "no-action" alternative in this EA. Under the "no-action" alternative, FWP would not do the proposed project.

The "no-action" alternative forms the baseline from which the potential impacts of the proposed Project can be measured.

	Yes*	No
Were any additional alternatives considered and dismissed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

\* If yes, a list and description of the other alternatives considered, but not carried forward for detailed review is included below

## VII. Summary of Potential Impacts of the Proposed Project on the Physical Environment and Human Population

The impacts analysis identifies and evaluates **direct**, **secondary**, and **cumulative impacts**.

- **Direct impacts** are those that occur at the same time and place as the action that triggers the effect.
- **Secondary impacts** "are further impacts to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action." ARM 12.2.429(18).
- **Cumulative impacts** "means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures." ARM 12.2.429(7).

Where impacts are expected to occur, the impact analysis estimates the **extent**, **duration**, **frequency**, and **severity** of the impact. The duration of an impact is quantified as follows:

- **Short-Term:** impacts that would not last longer than the proposed project.
- **Long-Term:** impacts that would remain or occur following the proposed project.

The severity of an impact is measured using the following:

- **No Impact:** there would be no change from current conditions.
- **Negligible:** an adverse or beneficial effect would occur but would be at the lowest levels of detection.

- **Minor:** the effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate:** the effect would be easily identifiable and would change the function or integrity of the resource.
- **Major:** the effect would irretrievably alter the resource.

Some impacts may require mitigation. As defined in ARM 12.2.429, mitigation means:

- Avoiding an impact by not taking a certain action or parts of a project;
- Minimizing impacts by limiting the degree or magnitude of a project and its implementation;
- Rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or
- Reducing or eliminating an impact over time by preservation and maintenance operations during the life of a project or the time period thereafter that an impact continues.

A list of any mitigation strategies including, but not limited to, design, enforceable controls or stipulations, or both, as applicable to the proposed project is included in **Section VI** above.

FWP must analyze impacts to the physical and human environment for each alternative considered. The proposed project considered the following alternatives:

- Alternative 1: No Action; and
- Alternative 2: Proposed Project

**Table 4: Impacts to the Physical Environment – Alternative 2: Proposed Project**

PHYSICAL ENVIRONMENT	Duration of Impact			Severity of Impact					Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	
Terrestrial, avian, and aquatic life and habitats	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No significant adverse impacts to terrestrial, avian, or aquatic life are expected. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). The presence of Rainbow Trout will increase angling opportunity. Therefore, impacts from the proposed project to terrestrial, avian, and aquatic life are expected to be long-term, major, and beneficial.
Water quality, quantity, and distribution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to water quality, quantity and distribution would be expected as a result of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). The proposed project would not impact any water quality, quantity or distribution in the affected area.
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to geology or geological processes in and around the proposed project location would be expected because of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). The proposed project would not impact any existing geology in the affected area.
Soil quality, stability, and moisture	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to soil quality, stability, and moisture would be expected as a result of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). The proposed project would not affect soils; therefore, no impacts would be expected because of the proposed project.
Vegetation cover, quantity, and quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to vegetation cover, quantity, and quality are expected as a result of this project. This project will increase aquatic life in McCoy



									Pond by adding a recreationally sought-after species (Rainbow Trout). No disturbance of banks would occur as a result of the proposed project. Additionally, Rainbow Trout do not negatively impact emergent and submergent vegetation like other fish species (e.g., Common Carp). Therefore, no impacts would be expected because of the proposed project.
Aesthetics	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to aesthetics would be expected because of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). Increased angling usage as a result of Rainbow Trout being introduced to the pond may occur. Increased angler use may result in an increase in vehicles parked on Sante Fe Rd. Increased angler use may impact the overall user-experience and aesthetic nature of the affected area for some individuals. Any impacts from the proposed project would be short-term and minor.
Air quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to air quality are expected as a result of the proposed project. Air quality in the area affected by the proposed project is currently unclassifiable or in compliance with applicable national ambient air quality standards (NAAQS). Further, no significant point-sources of air pollution exist in the area affected by the proposed project. Existing sources of air pollution in the area are limited and generally include unpaved county roads (fugitive dust source) and vehicle exhaust emissions. Fugitive dust and vehicle exhaust emissions resulting from the use of motor vehicles for the proposed project may adversely impact air quality. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). Travel to and from McCoy Pond would take place on established roads, including unpaved roads. Travel to and from the pond may result in fugitive dust emissions and thus impact air quality in the affected area. When completed, the proposed project would not result in additional new air

									quality disturbance in the affected area. Any impacts would be short-term, consistent with existing impacts, and negligible.
Unique, endangered, fragile, or limited environmental resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to unique, endangered, fragile, or limited environmental resources would be expected as a result of the proposed project. The presence of any animal and/or plant Species of Concern and/or any Threatened or Endangered species located within or using the affected area was assessed using the Montana Natural Heritage Program's online tool established for this purpose. No unique, endangered, fragile, or limited environmental resources have been observed within or near the proposed project location. Therefore, no impacts would be expected because of the proposed project.
Historical and archaeological sites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to historic and archaeological sites would be expected because of the proposed project. In keeping with the Montana Antiquities Act and related regulations (12.8.501-12.8.510), all undertakings on state lands are assessed by a qualified archaeologist or historian for their potential to affect cultural resources. The process for this assessment may include a cultural resource inventory and evaluation of cultural resources within or near the project area, in consultation with the State Historic Preservation Office or SHPO. FWP also consults with all Tribal Historic Preservation Offices or THPOs affiliated with each property in accordance with FWP's Tribal Consultation Guidelines. If cultural resources within or near the project area are recorded and are eligible for the National Register of Historic Places, they will be protected from adverse impacts through adjustments to the project design or cancellation of the project if no design alternatives are available. If cultural resources are unexpectedly discovered during project implementation, FWP will cease implementation, and contact FWP's Heritage Program for further evaluation.

Demands on environmental resources of land, water, air, and energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to demands on the environmental resources of land, water, air, and energy would be expected because of the proposed project. Fuel would be required to implement the proposed project. Any impacts would be short-term and negligible. Long-term, adequate water levels within the reservoir would be necessary to support the new and current fishery. Further, as identified previously through the analyses of potential impacts to water quality, quantity, and distribution; soil quality, stability, and moisture; vegetation cover, quantity, and quality; and air quality; some impacts to the environmental resources of land, water, and air may occur because of the proposed project. However, any such adverse impacts would be short-term and negligible (see cited impacts analyses above). Therefore, while the need for consistent water levels is long-term, any impacts would be short-term and negligible.
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**Table 5: Impacts to the Human Population**

<b>HUMAN POPULATION</b>	<b>Duration of Impact</b>			<b>Severity of Impact</b>					
Resource	None	Short-Term	Long-Term	None	Negligible	Minor	Moderate	Major	Summary of Potential Direct, Secondary, and Cumulative Impacts and Mitigation Measures
Social structures and mores	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to social structures and mores would be expected as a result of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). The introduction of Rainbow Trout would increase angling opportunity. Therefore, the proposed project would improve available fishing opportunities and experiences in the affected area. Any

									impacts to pre-project social structures, customs, values, and conventions in the affected area would be long-term, moderate, and beneficial
Cultural uniqueness and diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to cultural uniqueness and diversity would be expected because of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). The proposed action is not expected to result in any relocation of people into or out of the affected area. Therefore, no impacts to the existing cultural uniqueness and diversity of the affected area would be expected because of the proposed project.
Access to and quality of recreational and wilderness activities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to access and quality of recreational and wilderness activities are expected. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). No wilderness areas currently exist in the affected area; therefore, no impact to Wilderness recreation activities would occur because of the proposed project. The introduction of Rainbow Trout into McCoy Pond would improve fishing opportunities. Access to the pond would be available to the public as a result of the proposed project. Any impacts would be long-term, moderate, and beneficial.
Local and state tax base and tax revenues	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the local and state tax base and tax revenues would be expected from the proposed project. The proposed project may increase state and local tax revenues from fishing license sales and increased use of the pond. Increased traffic and use of the area may occur as knowledge and popularity of the fishery spreads, which may result in increased business for local communities. Therefore, any impacts would be long-term and minor.
Agricultural or Industrial production	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impacts to agricultural or industrial production would be expected as a result of the proposed project. This project will increase aquatic life in McCoy

									Pond by adding a recreationally sought-after species (Rainbow Trout). Because the affected area is not currently used for any type of industrial production, the proposed project would not impact such practices. Therefore, no impacts would be expected because of the proposed project.
Human health and safety	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to health and human safety are expected as a result of or during this project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). No changes to the environment impacting human health or safety would occur because of the proposed project. Therefore, no impacts to human health or safety would be expected.
Quantity and distribution of employment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to the existing quantity and distribution of employment would be expected because of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). Short-term and negligible impacts to the local quantity and distribution of employment may be realized because existing government staff would be required to complete project activities. Any impacts would be short-term and negligible, lasting only as long as the proposed project.
Distribution and density of population and housing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to distribution and density of population and housing would be expected because of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). Existing government staff would be used to accomplish the proposed project and it is not expected the proposed project would result in the movement of existing or new population into or out of the affected area. Therefore, no impacts would be expected because of the proposed project.
Demands for government services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to demands for government services would be expected as a result of the

									proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). Existing government staff would be used to accomplish the proposed project and affected FWP staff would continue managing the fishery as part of normal job responsibilities for the affected fisheries management area. No additional demands for government services would be expected because of the proposed project. Any impacts would be short-term and negligible.
Industrial, agricultural, and commercial activity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to agricultural, commercial, or industrial activity would be expected as a result of the proposed project. This project will increase aquatic life in McCoy Pond by adding a recreationally sought-after species (Rainbow Trout). Because the affected area is not currently used for any type of industrial or commercial activities, the proposed project would not impact such practices. Therefore, no impacts would be expected because of the proposed project.
Locally adopted environmental plans and goals	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to locally adopted environmental plans and goals would be expected as a result of the proposed project. Goals for McCoy Pond were established between FWP and Dale McCoy and include the following: create a new opportunity for recreational angling. The proposed project would accomplish the identified goals. FWP is unaware of any other locally adopted environmental plans or goals that may be impacted by the proposed project. Therefore, any impacts would be long-term, moderate, and beneficial.
Other appropriate social and economic circumstances	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant adverse impacts to any other appropriate social and economic circumstances would be expected because of the proposed project. FWP is unaware of any other appropriate social and economic circumstances that may be impacted by the proposed project. Therefore, no impacts would be expected because of the proposed project.

**Table 6: Determining the Significance of Impacts on the Quality of the Human Environment**

If the EA identifies impacts associated with the proposed project FWP must determine the significance of the impacts. ARM 12.2.431. This determination forms the basis for FWP's decision as to whether it is necessary to prepare an environmental impact statement.

According to the applicable requirements of ARM 12.2.431, FWP must consider the criteria identified in this table to determine the significance of each impact on the quality of the human environment. The significance determination is made by giving weight to these criteria in their totality. For example, impacts identified as moderate or major in severity may not be significant if the duration is short-term. However, moderate or major impacts of short-term duration may be significant if the quantity and quality of the resource is limited and/or the resource is unique or fragile. Further, moderate or major impacts to a resource may not be significant if the quantity of that resource is high or the quality of the resource is not unique or fragile.

**Criteria Used to Determine Significance**

1	<p>The <b>severity, duration, geographic extent, and frequency</b> of the occurrence of the impact</p> <p><b>“Severity”</b> describes the density of the potential impact, while <b>“extent”</b> describes the area where the impact will likely occur, e.g., a project may propagate ten noxious weeds on a surface area of 1 square foot. Here, the impact may be high in severity, but over a low extent. In contrast, if ten noxious weeds were distributed over ten acres, there may be low severity over a larger extent.</p> <p><b>“Duration”</b> describes the time period during which an impact may occur, while <b>“frequency”</b> describes how often the impact may occur, e.g., an operation that uses lights to mine at night may have frequent lighting impacts during one season (duration).</p>
2	The probability that the impact will occur if the proposed project occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur
3	Growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts
4	The quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources and values
5	The importance to the state and to society of each environmental resource or value that would be affected
6	Any precedent that would be set as a result of an impact of the proposed project that would commit FWP to future actions with significant impacts or a decision in principle about such future actions
7	Potential conflict with local, state, or federal laws, requirements, or formal plans

## VIII. Private Property Impact Analysis (Takings)

The 54<sup>th</sup> Montana Legislature enacted the Private Property Assessment Act, now found at § 2-10-101. The intent was to establish an orderly and consistent process by which state agencies evaluate their proposed projects under the "Takings Clauses" of the United States and Montana Constitutions. The Takings Clause of the Fifth Amendment of the United States Constitution provides: "nor shall private property be taken for public use, without just compensation." Similarly, Article II, Section 29 of the Montana Constitution provides: "Private property shall not be taken or damaged for public use without just compensation..."

The Private Property Assessment Act applies to proposed agency projects pertaining to land or water management or to some other environmental matter that, if adopted and enforced without due process of law and just compensation, would constitute a deprivation of private property in violation of the United States or Montana Constitutions.

The Montana State Attorney General's Office has developed guidelines for use by state agencies to assess the impact of a proposed agency project on private property. The assessment process includes a careful review of all issues identified in the Attorney General's guidance document (Montana Department of Justice 1997). If the use of the guidelines and checklist indicates that a proposed agency project has taking or damaging implications, the agency must prepare an impact assessment in accordance with Section 5 of the Private Property Assessment Act.

**Table 7: Private Property Assessment (Takings)**

	Yes	No	
<i>Is FWP regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Does the proposed regulatory action restrict the use of the regulated person's private property? If not, no further analysis is required.</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Does FWP have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>If so, FWP must determine if there are alternatives that would reduce, minimize, or eliminate the restriction on the use of private property, and analyze such alternatives. Have alternatives been considered and/or analyzed? If so, describe below:</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>PRIVATE PROPERTY ASSESMENT ACT (PPAA)</b>			
<b>Does the Proposed Action Have Takings Implications under the PPAA?</b>	<b>Question #</b>	<b>Yes</b>	<b>No</b>
Does the project pertain to land or water management or environmental regulations affecting private property or water rights?	1	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action result in either a permanent or an indefinite physical occupation of private property?	2	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action deprive the owner of all economically viable uses of the property?	3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 5a and 5b and continue with question 6.)	4	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is there a reasonable, specific connection between the government requirement and legitimate state interest?	4a	<input type="checkbox"/>	<input type="checkbox"/>
Is the government requirement roughly proportional to the impact of the proposed use of the property?	4b	<input type="checkbox"/>	<input type="checkbox"/>



Does the action deny a fundamental attribute of ownership?	5	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action have a severe impact of the value of the property?	6	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public general? (If the answer is NO, skip questions 7a-7c.)	7	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the impact of government action direct, peculiar, and significant?	7a	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?	7b	<input type="checkbox"/>	<input type="checkbox"/>
Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?	7c	<input type="checkbox"/>	<input type="checkbox"/>
<b>Does the proposed action result in taking or damaging implications?</b>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Taking or damaging implications exist if <b>YES</b> is checked in response to Question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if <b>NO</b> is checked in response to question 5a or 5b.			
If taking or damaging implications exist, the agency must comply with MCA § 2-10-105 of the PPAA, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.			
<b>Alternatives:</b> The analysis under the Private Property Assessment Act, §§ 2-10-101 through -112, MCA, indicates no impact. FWP does not plan to impose conditions that would restrict the regulated person's use of private property to constitute a taking.			

## IX. Public Participation

The level of analysis in an EA will vary with the complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. FWP is responsible for adjusting public review to match these factors (ARM 12.2.433(1)). Because FWP determines the proposed action will result in limited environmental impact, and little public interest has been expressed, FWP determines the following public notice strategy will provide an appropriate level of public review:

- An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to FWP. If the document is out-of-print, a copying charge may be levied (ARM 12.2.433(2)).
- Public notice will be served on the Montana Fish, Wildlife and Parks website at:  
<https://fwp.mt.gov/aboutfwp/public-comment-opportunities>
- Copies will be distributed to neighboring landowners to ensure their knowledge of the proposed project and opportunity for review and comment on the proposed action.
- FWP maintains a mailing list of persons interested in a particular action or type of action. FWP will notify all interested persons and distribute copies of the EA to those persons for review and comment (ARM 12.2.433(3)).
- FWP will issue public notice in the following newspaper periodical(s) on the date(s) indicated.

Newspaper / Periodical	Date(s) Public Notice Issued
Independent Record – Helena, MT	6/24/2023

- Public notice will announce the availability of the EA, summarize its content, and solicit public comment.
  - **Duration of Public Comment Period:** The public comment period begins on the date of publication of legal notice in area newspapers (see above). Written or e-mailed comments will be accepted until 5:00 p.m., MST, on the last day of public comment, as listed below:

**Length of Public Comment Period:** 15 days

**Public Comment Period Begins:** 6/19/2023

**Public Comment Period Ends:** 7/3/2023

Comments must be addressed to the FWP contact, as listed below.

○ **Where to Mail or Email Comments on the Draft EA:**

Name: JARED KREBS

Email: jared.krebs@mt.gov

Mailing Address:

1 Airport Rd

Glasgow, MT 59230

## X. Recommendation for Further Environmental Analysis

<b>NO</b> further analysis is needed for the proposed action	<input checked="" type="checkbox"/>
FWP must conduct <b>EIS</b> level review for the proposed action	<input type="checkbox"/>

## XI. EA Preparation and Review

	<b>Name</b>	<b>Title</b>
<b>EA prepared by:</b>	Jared Krebs	Fisheries Biologist
<b>EA reviewed by:</b>	Steve Dalbey	Fisheries Manager